

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 98-0060 AGI

Individual Income Tax

Calendar Year 1996

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ISSUE

Tax Administration – Penalty

Authority: IC 6-8-1-10-2.1(d), 45 IAC 15-11-2 and IC 6-3-4-3

The taxpayer protests the imposition of the penalty.

STATEMENT OF FACTS

The taxpayer filed an IT-40 for calendar year 1996 on August 14, 1997. On October 16, 1997 the Department issued its AR-40 billing; on December 1, 1997 the Clerks Warrant, and on January 6, 1998 the Sheriff's Warrant.

DISCUSSION

The taxpayer protests the assessment of a late payment penalty. IC 6-3-4-3 requires the filing of the individual income tax return on or before the 15th day of the fourth month following the close of the taxable year. The return was postmarked August 14, 1997.

The taxpayer states that he was assessed "an erroneous penalty" for not having sufficient payment by April 15, 1997 and that his return proves he paid over 91% of the taxes owed by April 15, 1997.

The taxpayer argues the penalty for underpayment of estimated tax which is not the issue as the taxpayer made no estimated payments. The penalty is assessed for filing and paying after the due date. In addition, the liability has reached the Warrant-S stage and has incurred additional collection costs.

FINDINGS

The taxpayer's protest is denied.